

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TOM OMONDI MZEE OWUOR	:	No. 4:08-CV-2198
Petitioner,	:	
	:	Judge John E. Jones III
V.	:	
	:	
ATTORNEY GENERAL, <i>et al.</i> ,	:	
Respondents	:	

**MEMORANDUM**

April 15, 2009

This matter is before the Court on the March 13, 2009 Report and Recommendation of Magistrate Judge J. Andrew Smyser (Doc. 8), which recommends that this action be dismissed for petitioner Tom Omondi Mzee Owuor's failure to comply with court orders directing him to either pay the filing fee in this case or file an application to proceed *in forma pauperis*. No objections to the Report and Recommendation have been filed, and the time in which to do so has long passed.

Where, as here, no objections are made to a magistrate judges's report and recommendation, the district court is not statutorily required to review the report before accepting it. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). According to the Third Circuit, however, "the better practice is to afford some level of review to

dispositive legal issues raised by the report.” *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). Under Fed. R. Civ. P. 72(b), “[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), Advisory Committee Notes. In this case, the Court’s examination of the record confirms the Magistrate Judge’s recommendations, and although no reason has been presented to revisit them, the Court will briefly review the salient aspects of the dispositive legal issues raised by the report.

The background of this action is fully set forth in the Court’s February 2, 2009 order (Doc. 7). In brief summary, this action was previously dismissed for Owuor’s failure to pay the filing fee or submit an application to proceed *in forma pauperis* despite this Court’s order directing him to do so. However, by its order of February 2, 2009, the Court granted Owuor’s motion for reconsideration based on his professed confusion at prior orders, reopened this case, and clearly and directly ordered Owuor to pay the filing fee or file an application to proceed *in forma pauperis* within 30 days. Another copy of the appropriate application form was attached to the Court’s order.

Owuor, however, has still not paid the filing fee or filed an application to proceed *in forma pauperis*. The Court will therefore adopt the Report and Recommendation and dismiss this action. An appropriate order will be entered.